

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FREIGHTQUOTE.COM, INC,

Plaintiff,

v.

FREIGHT & SHIPPING, INC. and
UNIVERSAL FREIGHT ORGANISATION
LIMITED,

Defendant.

Civil Action No. 1:08-cv-05249

Judge Guzman
Magistrate-Judge Nolan

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT

Plaintiff, Freightquote.com, Inc. ("Freightquote.com") respectfully requests that the Court enter default against Defendant Freight & Shipping, Inc. ("F&S") in this case.

I. SERVICE OF COMPLAINT AND SUMMONS

On September 15, 2008, Freightquote.com filed this Complaint against F&S and Universal Freight Organisation Limited ("UFOL")¹ alleging violation of the Lanham Act, violation of the Anticybersquatting Consumer Protection Act, federal trademark infringement, common law trademark infringement and unfair competition. F&S is a Florida corporation providing freight shipping and management services through its Internet web sites www.freightnshipping.com and www.shippingquotes.org.

The records of the Florida Secretary of State list the registered address and principal place of business for F&S as 4890 122nd Ave. N, Suite 3, Clearwater, Florida 33762; and the Registered Agent as Bob Forker (Exhibit A). On September 19, 2008, a process server

¹ Plaintiff and Defendant UFOL have reached a settlement of these claims and submitted a Consent Judgment Order to the Court for approval (Doc. No. 12).

attempted service on the Registered Agent at the registered address, but was advised that Bob Forker was not a known employee or agent of F&S. In addition, the company's Vice President was unavailable at that time. As a result, a copy of the Complaint and Summons were served on the Operations Manager of F&S at the company's principal place of business (and registered address). The Affidavit of Service was filed on October 1, 2008 (Exhibit B).

Service upon Defendant F&S was proper according to Florida Rule of Civil Procedure 1.070, Florida Statute Title VI, ch. 48, §§ 48.081(3)(a) and 48.091(2) (Exhibit C) and Rules 4(e) and (h), Fed.R.Civ.P., making Defendant's responsive pleading due no later than October 9, 2008.

II. ENTRY OF DEFAULT AGAINST F&S IS APPROPRIATE

To date, despite being properly served, F&S has failed to answer, object or otherwise plead in response to the Complaint filed against it. Entry of default against F&S is clearly warranted. Unum Life Insurance Co. v. Nichols, 2008 U.S. Dist. LEXIS 8766 at *4 (N.D. Ind. February 4, 2008), *citing* Hill v. Barbour, 787 F.Supp. 146, 148 n.4 (N.D. Ill. 1992) ("[E]ntry is recognition of the fact that a party is in default for failure to comply with the rules."); McDonald's Corp. v. Simon Marketing, Inc., 2002 WL 31056697 at *3 (N.D. Ill. September 16, 2002) (default entered for failure to answer complaint).

III. REQUESTED RELIEF

Upon entry of default and upon the Court's direction, Freightquote.com will seek entry of default judgment of the claims and allegations set forth in its Complaint. Specifically, Freightquote.com intends to seek an award of statutory and monetary damages pursuant to 15 U.S.C. §§ 1117(a)-(d), as well as its reasonable attorneys' fees and costs incurred with this action. Plaintiff also will seek a permanent injunction. See e.g., Lorillard Tobacco Co. v. Montrose Wholesale Candies & Sundries, Inc., 2007 U.S. Dist. LEXIS 66816 (N.D. Ill.

September 10, 2007) (entering default judgment including a permanent injunction and trademark statutory damages).

IV. CONCLUSION

For the foregoing reasons, Freightquote.com respectfully requests that the Court grant its motion for entry of default with respect to Defendant F&S.

Respectfully submitted,

/s/ Raymond P. Niro, Jr.

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Attorneys for Freightquote.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2008, I caused the foregoing PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT to be electronically filed with the Clerk of the Court using the CM/ECF system, and that a copy was served upon Defendant as follows:

Federal Express and Facsimile:

Freight & Shipping, Inc.
4890 122nd Ave. N, Suite 3
Clearwater, Florida 33762
Fax: (727) 230-8020
Attn: Eric Masters, Vice President
Operations Manager
or other authorized representative

/s/ Raymond P. Niro, Jr.
Attorney for Plaintiff